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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,643	08/22/2003	George William Dailey	2003P07970 US	9785

7590 07/25/2005

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EXAMINER

AYRES, TIMOTHY MICHAEL

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/646,643	Applicant(s) DAILEY, GEORGE WILLIAM	
	Examiner Timothy M. Ayres	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

This is a first office action on the merits of application SN10/646,643.

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the motor assembly operably coupled to each of the connecting arms in claim 4, the planar member configured and adapted to support the patient in claim 1, and how the pedestal is further configured for independent rotational motion in claim 5 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is

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being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how the planar member is configured and adapted to support the patient.

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5. Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how the motor assembly can be coupled to each of the connecting arms.

6. Claim 5 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how the pedestal is configure for independent rotational motion.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

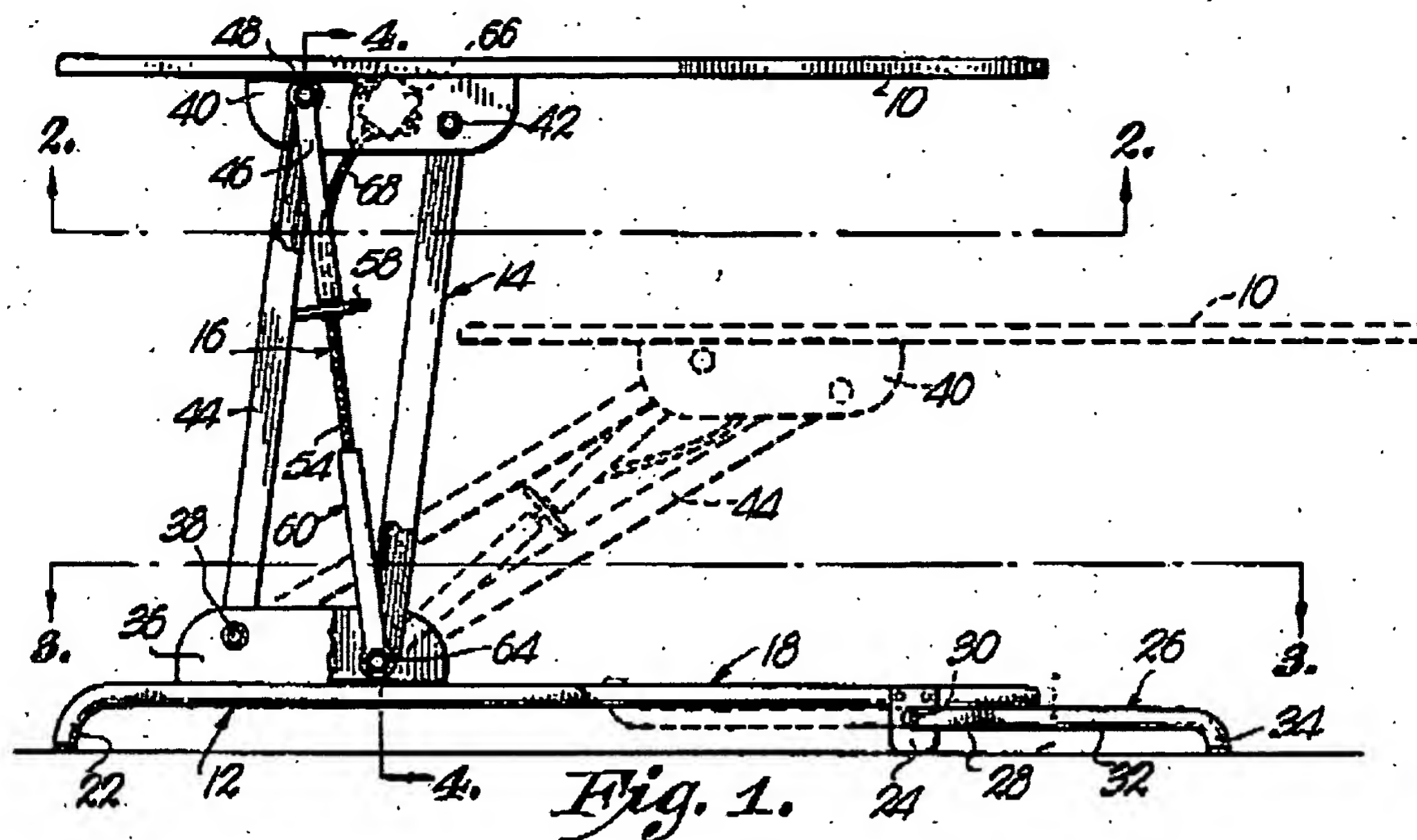
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-4 and 8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent 3,288,090 to King. King '090 discloses an elongated

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planar member (10) that has a top and bottom side and inherently can support a patient. A support assembly (12) includes a base (18) that defines the base plane and a pedestal (36) disposed on the base (18). A plurality of elongated connecting arms (14), with a first end defined by pins (42) and a second end defined by pins (38). The first end of the elongated members (14) is pivotally attached through pins (42) to the bottom of the planar member (10) through flange (40). The second end of the elongated members (14) is pivotally attached through pins (38) to the base pedestal (36). The planar member (10) moves from a first position to a second position as shown in figure 1 with the elongated members (14) traveling through an axis that is orthogonal to the base.

9. The means for moving the planar member from the first position to the second position is a motor assembly (66, 68) with a screw member (54), which connects to the pins (38,42) and the connecting arms. The plane of the first position and the plane of the second position are parallel to each other and the base plane as shown in figure 1. The plurality of elongated members (14) is arranged in a four bar linkage.



King '090 Fig. 1

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 5, 6, 9-13, 15-20, 22-28, and 30 are rejected under 35 U.S.C.

103(a) as being unpatentable over U.S. Patent 3,288,090 to King in view of U.S.

Patent 4,173,372 to Norris. King '090 discloses every element as stated above.

King '090 does not disclose expressly the pedestal configured for independent rotational motion relative to the base about a vertical axis and a motor assembly to rotate the pedestal. Norris '372 discloses a support assembly (12) for a seat

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(14) that is rotatable on the pedestal (10) about the vertical axis. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the assembly of King to rotate like support assembly of Norris so that the assembly can be rotated to any desired orientation.

12. In regards to claim 6 and 28, King '090 in view of Norris '372 discloses the claimed invention except for a motor assembly to rotate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a motor assembly to rotate the assembly, since it has been held that broadly providing a mechanical or automatic means to replace manual activity that has accomplished the same result involves only routine skill in the art. In re Venner 120 USPQ 192.

13. Claims 9-13, 15-20, 22, and 23 are an obvious method of using the device of King modified by Norris.

14. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,288,090 to King in view of U.S. Patent 6,516,478 to Cook. King '090 discloses every element as described above. King '090 does not disclose expressly a remote control coupled to the motor assembly. Cook '478 discloses an adjustable height platform (10) with a motor (30) attached to scissor linkage (36,38,40,42). The motor (30) is attached through a controller (20) to a remote control (96) as shown in the block diagram of figure 5. At the time of the invention it would have been obvious for a person of ordinary skill in the art to take the

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assembly of King and add the remote control of Cook to activate the motor remotely.

15. Claim 14, 21, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,288,090 to King in view of U.S. Patent 4,173,372 to Norris as applied to claim 24 above, and further in view of U.S. Patent 6,516,478 to Cook. King modified by Norris discloses every element above except a remote control. Cook '478 discloses every element described above as applied to claim 7. At the time of the invention it would have been obvious for a person of ordinary skill in the art to take the assembly of King in view of Norris and add the remote control of Cook to activate the motor remotely.

16. Claims 14 and 21 are an obvious method of using the device of King modified by Norris and further modified by Cook.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 3,428,307 to Hunter discloses a support structure for a patient while doing deep X-ray therapy. U.S. Patent 5,732,425 to Leung discloses a table using a four bar linkage structure and a gas spring as a means for movement. U.S. Patent 5,503,086 to Hoffman discloses a table with a four bar linkage and a spring to move from a first position to a second position. U.S. Patent 3,874,728 to Weiland discloses a dental chair that uses a four bar linkage, a motor and a pedestal base to move from a first position to a second

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position. U.S. Patent 4,073,240 to Fly discloses a portable animal table that uses a four bar linkage and a pressure cylinder to move the table. U.S. Patent 5,131,105 to Harrawood discloses a patient support table with a remote control that is used for x-ray imaging. U.S. Patent 5,013,018 to Sicek discloses a table that used in x-ray diagnostics, which has a base that rotates and can move in several directions. U.S. Patent 3,203,373 to King discloses a support structure with a four bar linkage that uses a motor to move the table from a first position to a second position. U.S. Patent 3,304,609 to Horowitz discloses a table that adjust vertically and that rotates about the vertical axis. U.S. Patent 3,751,028 to Scheininger discloses a table that rotates about a vertical axis.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-FRI 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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7/20/05

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